

# House File 651 - Introduced

HOUSE FILE 651

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 197)

## A BILL FOR

1 An Act relating to property tax assessments, composition of  
2 conference boards, and property assessment protests and  
3 appeals, and including applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PROPERTY ASSESSMENT APPEAL BOARD AND APPEAL COSTS

Section 1. Section 441.37A, subsection 1, paragraph a, Code 2017, is amended to read as follows:

a. For the assessment year beginning January 1, 2007, and all subsequent assessment years ~~beginning before January 1, 2021~~, appeals may be taken from the action of the board of review with reference to protests of assessment, valuation, or application of an equalization order to the property assessment appeal board created in [section 421.1A](#). However, a property owner or aggrieved taxpayer or an appellant described in section 441.42 may bypass the property assessment appeal board and appeal the decision of the local board of review to the district court pursuant to [section 441.38](#).

Sec. 2. Section 441.37A, subsection 3, paragraph b, Code 2017, is amended to read as follows:

b. The decision of the board shall be considered the final agency action for purposes of further appeal, except as otherwise provided in [section 441.49](#). The decision shall be final unless appealed to district court as provided in section 441.38. The levy of taxes on any assessment appealed to the board shall not be delayed by any proceeding before the board, and if the assessment appealed from is reduced by the decision of the board, any taxes levied upon that portion of the assessment reduced shall be abated or, if already paid, shall be refunded. If the subject of an appeal is the application of an equalization order, the property assessment appeal board shall not order a reduction in assessment greater than the amount that the assessment was increased due to application of the equalization order. Each party to the appeal shall be responsible for the costs of the appeal incurred by that party. However, for assessment years beginning on or after January 1, 2018, if the property assessment appeal board decides in favor of the property owner or aggrieved taxpayer and the amount of the assessment appealed from is reduced by the decision of

1 the board, the office of assessor shall be responsible for a  
2 percentage of the property owner's or aggrieved taxpayer's  
3 reasonable costs incurred equal to the percentage by which the  
4 assessment is reduced by the board payable from the assessment  
5 expense fund authorized by section 441.16. For purposes of  
6 this section, costs include but are not limited to legal fees,  
7 appraisal fees, and witness fees. The responsibility for the  
8 payment of a percentage of the property owner's or aggrieved  
9 taxpayer's reasonable costs by the office of assessor shall not  
10 apply to the first appeal to the board for which the assessment  
11 is reduced for the assessment year beginning January 1, 2018,  
12 or the first such reduction for a subsequent assessment year if  
13 no such reduction is ordered by the board for the assessment  
14 year beginning January 1, 2018.

15     Sec. 3. Section 441.40, Code 2017, is amended to read as  
16 follows:

17     **441.40 Costs, fees, and expenses apportioned.**

18     The clerk of the court shall likewise certify to the county  
19 treasurer the costs assessed by the court on any appeal from a  
20 board of review to the district court, in all cases where said  
21 costs are taxed against the board of review or any taxing body.  
22 For assessment years beginning on or after January 1, 2018, if  
23 the district court decides in favor of the property owner or  
24 aggrieved taxpayer and the amount of the assessment appealed  
25 from is reduced by the decision of the district court, the  
26 board of review or applicable taxing body shall be responsible  
27 for the payment of a percentage of the property owner's or  
28 taxpayer's reasonable costs incurred equal to the percentage  
29 by which the assessment is reduced by the district court. For  
30 purposes of this section, costs include but are not limited  
31 to legal fees, appraisal fees, and witness fees. Thereupon  
32 the county treasurer shall compute and apportion the said  
33 costs between the various taxing bodies participating in the  
34 proceeds of the collection of the taxes involved in any such  
35 appeal, and said treasurer shall so compute and apportion the

1 various amounts which said taxing bodies are required to pay in  
 2 proportion to the amount of taxes each of said taxing bodies is  
 3 entitled to receive from the whole amount of taxes involved in  
 4 each of such appeals. The said county treasurer shall deduct  
 5 from the proceeds of all general taxes collected the amount of  
 6 costs so computed and apportioned by the treasurer from the  
 7 moneys due to each taxing body from general taxes collected.  
 8 The amount so deducted shall be certified to each taxing body  
 9 in lieu of moneys collected. Said county treasurer shall pay  
 10 to the clerk of the district court the amount of said costs so  
 11 computed, apportioned and collected by the treasurer in all  
 12 cases now on file or hereafter filed in which said costs have  
 13 not been paid.

14 Sec. 4. REPEAL. 2005 Iowa Acts, chapter 150, section 134,  
 15 as amended by 2013 Iowa Acts, chapter 123, section 62, and 2015  
 16 Iowa Acts, chapter 109, section 1, is repealed.

#### 17 DIVISION II

#### 18 PROTEST AND APPEAL BURDEN OF PROOF

19 Sec. 5. Section 441.21, subsection 3, paragraph b, Code  
 20 2017, is amended to read as follows:

21 b. (1) The For assessment years beginning before January  
 22 1, 2018, the burden of proof shall be upon any complainant  
 23 attacking such valuation as excessive, inadequate, inequitable,  
 24 or capricious; ~~however.~~ However, in protest or appeal  
 25 proceedings when the complainant offers competent evidence by  
 26 at least two disinterested witnesses that the market value of  
 27 the property is less than the market value determined by the  
 28 assessor, the burden of proof thereafter shall be upon the  
 29 officials or persons seeking to uphold such valuation to be  
 30 assessed.

31 (2) For assessment years beginning on or after January 1,  
 32 2018, when a valuation is attacked by a complainant, the burden  
 33 of proof shall be upon the office of assessor to demonstrate  
 34 that such valuation is not excessive, inadequate, inequitable,  
 35 or capricious.

DIVISION III

CONFERENCE BOARDS

1  
2  
3 Sec. 6. Section 39.21, Code 2017, is amended by adding the  
4 following new subsection:

5 NEW SUBSECTION. 5. Public members of a conference board as  
6 provided in section 441.2.

7 Sec. 7. Section 49.41, subsection 4, Code 2017, is amended  
8 to read as follows:

9 4. For purposes of township office and city and county  
10 conference board public membership, "*nomination papers*" as used  
11 in this section means the affidavit of candidacy required in  
12 section 45.3.

13 Sec. 8. Section 441.2, Code 2017, is amended to read as  
14 follows:

15 **441.2 Conference board.**

16 1. a. In each county and each city having an assessor there  
17 shall be established a conference board.

18 b. In counties the conference board shall consist of  
19 the mayors of all incorporated cities in the county whose  
20 property is assessed by the county assessor, one representative  
21 from the board of directors of each high school district of  
22 the county, who is a resident of the county, said board of  
23 directors appointing said representative for a one-year term  
24 and notifying the clerk of the conference board as to their  
25 representative, and members of the board of supervisors, and  
26 four public members. The four public members shall be elected  
27 by the voters of the county within the assessing jurisdiction,  
28 at the general election in the manner provided in paragraph  
29 "d". Each public member seat on the conference board shall be  
30 held by an individual who owns or holds an interest in taxable  
31 property located in the assessing jurisdiction of the county  
32 that is classified as residential, agricultural, commercial, or  
33 industrial property. Each of the four property classifications  
34 shall be assigned to one of the four public member seats and  
35 designated as such on the ballot unless one or more of the

1 property classifications is not present within the assessing  
2 jurisdiction. If a property classification is not present  
3 within the assessing jurisdiction, that public member seat  
4 shall not be assigned a classification, shall not be designated  
5 on the ballot as being limited to a property classification,  
6 and may be occupied by an individual owning or having an  
7 interest in any property classification that is present within  
8 the assessing jurisdiction.

9 c. In cities having an assessor the conference board shall  
10 consist of the members of the city council, school board, and  
11 county board of supervisors, and four public members. The four  
12 public members shall be elected by the voters of the city at  
13 the regular city election in the manner provided in paragraph  
14 "d". Each public member seat on the conference board shall be  
15 held by an individual who owns or holds an interest in taxable  
16 property located in the city that is classified as residential,  
17 agricultural, commercial, or industrial property. Each of  
18 the four property classifications shall be assigned to one of  
19 the four public member seats and designated as such on the  
20 ballot unless one or more of the property classifications is  
21 not present within the city. If a property classification is  
22 not present within the city, that public member seat shall not  
23 be assigned a classification, shall not be designated on the  
24 ballot as being limited to a property classification, and may  
25 be occupied by an individual owning or having an interest in  
26 any property classification that is present within the city.

27 d. The election of the four public members of a conference  
28 board shall take place at the election specified in paragraphs  
29 "b" and "c" on ballots which shall not reflect a nominee's  
30 political affiliation. A person seeking election as a public  
31 member of a conference board shall file an affidavit of  
32 candidacy with the county commissioner of elections pursuant to  
33 section 45.3. A plurality is sufficient to elect the public  
34 members of a conference board. The four public members shall  
35 each be elected for a four-year term and may be reelected for

1 additional four-year terms. A vacancy among the public member  
 2 seats prior to the expiration of a term shall be filled by  
 3 appointment by the remaining public members of the conference  
 4 board. The appointment shall be for the period until the next  
 5 pending election as defined in section 69.12, and shall be made  
 6 within forty days after the vacancy occurs.

7 2. In the counties the chairperson of the board of  
 8 supervisors shall act as chairperson of the conference board,  
 9 and in cities having an assessor the mayor of the city council  
 10 shall act as chairperson of the conference board.

11 3. In any action taken by the conference board, the mayors  
 12 of all incorporated cities in the county whose property is  
 13 assessed by the county assessor shall constitute one voting  
 14 unit, the members of the city board of education or one  
 15 representative from the board of directors of each high school  
 16 district of the county shall constitute one voting unit, the  
 17 members of the city council shall constitute one voting unit,  
 18 ~~and~~ the county board of supervisors shall constitute one voting  
 19 unit, and the four public members shall each constitute a  
 20 separate voting unit, each unit having a single vote and no  
 21 action shall be valid except by the vote of not less than two  
 22 four out of the three seven units. The majority vote of the  
 23 members present of each unit shall determine the vote of the  
 24 unit.

25 4. The assessor shall be clerk of the conference board.

#### 26 DIVISION IV

#### 27 PROPERTY ASSESSMENT CHANGES

28 Sec. 9. Section 428.4, subsection 1, Code 2017, is amended  
 29 to read as follows:

30 1. Property shall be assessed for taxation each year.  
 31 Real estate shall be listed and assessed in 1981 and every  
 32 two years thereafter. The assessment of real estate shall  
 33 be the value of the real estate as of January 1 of the year  
 34 of the assessment. The year 1981 and each odd-numbered year  
 35 thereafter shall be a reassessment year. In any even-numbered

1 year, after the year in which an assessment has been made  
2 of all the real estate in an assessing jurisdiction, the  
3 assessor shall value and assess or revalue and reassess, as  
4 the case may require, any individual real estate parcel that  
5 the assessor finds was ~~incorrectly valued or assessed for more~~  
6 than the value authorized by law, or was not listed, ~~valued,~~  
7 ~~and assessed,~~ in the assessment year immediately preceding,  
8 also any real estate the assessor finds has changed in value  
9 subsequent to January 1 of the preceding real estate assessment  
10 year in accordance with subsection 3. However, a percentage  
11 increase on a class of property shall not be made in a year  
12 not subject to an equalization order unless ordered by the  
13 department of revenue, and any such increase must apply to  
14 all property within the class. A percentage increase for an  
15 even-numbered year shall be applied to all property within the  
16 class and shall not be applied only to a subset of the class  
17 unless approved by the department of revenue. The assessor  
18 shall determine the actual value and compute the taxable value  
19 thereof as of January 1 of the year of the revaluation and  
20 reassessment of all real estate. The assessment shall be  
21 completed as specified in [section 441.28](#), but no reduction or  
22 increase in actual value shall be made for prior years. If an  
23 assessor makes a change in the valuation of the real estate as  
24 provided for, [sections 441.23](#), [441.37](#), [441.37A](#), [441.38](#), and  
25 [441.39](#) apply.

26 Sec. 10. Section 441.30, subsections 1 and 2, Code 2017, are  
27 amended to read as follows:

28 1. Any property owner or aggrieved taxpayer who is  
29 dissatisfied with the owner's or taxpayer's assessment may  
30 contact the assessor by telephone or in writing by paper  
31 or electronic medium on or after April 2, to and including  
32 April 25, of the year of the assessment to inquire about the  
33 specifics and accuracy of the assessment. Such an inquiry may  
34 also include a request for an informal review of the assessment  
35 by the assessor under one or more of the grounds for protest



1 authorized under section 441.37 ~~for the same assessment year.~~

2     2. In response to an inquiry under subsection 1, if the  
3 assessor, following an informal review, determines that the  
4 assessment was incorrect under one or more of the grounds for  
5 protest authorized under section 441.37 ~~for the same assessment~~  
6 ~~year~~, the assessor may, on or before April 25, recommend that  
7 the property owner or aggrieved taxpayer file a protest with  
8 the local board of review and may file a recommendation with  
9 the local board of review related to the informal review, or  
10 may enter into a signed written agreement with the property  
11 owner or aggrieved taxpayer authorizing the assessor to correct  
12 or modify the assessment according to the agreement of the  
13 parties.

14     Sec. 11. Section 441.37, subsection 1, paragraph a,  
15 subparagraph (1), Code 2017, is amended to read as follows:

16     ~~{1} For odd-numbered assessment years and for even-numbered~~  
17 ~~assessment years for property that was reassessed in such~~  
18 ~~even-numbered assessment year.~~

19     ~~{a}~~ (1) That said assessment is not equitable as compared  
20 with assessments of other like property in the taxing district.  
21 When this ground is relied upon as the basis of a protest the  
22 legal description and assessments of a representative number of  
23 comparable properties, as described by the aggrieved taxpayer  
24 shall be listed on the protest, otherwise said protest shall  
25 not be considered on this ground.

26     ~~{b}~~ (2) That the property is assessed for more than the  
27 value authorized by law. When this ground is relied upon, the  
28 protesting party shall state the specific amount which the  
29 protesting party believes the property to be overassessed, and  
30 the amount which the party considers to be its actual value and  
31 fair assessment.

32     ~~{c}~~ (3) That the property is not assessable, is exempt  
33 from taxes, or is misclassified and stating the reasons for the  
34 protest.

35     ~~{d}~~ (4) That there is an error in the assessment and state

1 the specific alleged error. When this ground is relied upon,  
2 the error may include but is not limited to listing errors,  
3 clerical or mathematical errors, or other errors that result  
4 in an error in the assessment.

5 ~~(e)~~ (5) That there is fraud in the assessment which shall  
6 be specifically stated.

7 Sec. 12. Section 441.37, subsection 1, paragraph a,  
8 subparagraph (2), Code 2017, is amended by striking the  
9 subparagraph.

10 Sec. 13. Section 441.41, Code 2017, is amended to read as  
11 follows:

12 **441.41 Legal counsel.**

13 In the case of cities having an assessor, the city legal  
14 department shall represent the assessor and board of review  
15 in all litigation dealing with assessments. In the case of  
16 counties, the county attorney shall represent the assessor and  
17 board of review in all litigation dealing with assessments.  
18 Any taxing body interested in the taxes received from such  
19 assessments may be represented by an attorney and shall be  
20 required to appear by attorney upon written request of the  
21 assessor to the presiding officer of any such taxing body. ~~The~~  
22 Subject to review and approval by the city legal department or  
23 the county attorney, as applicable, the conference board may  
24 employ special counsel to assist the city legal department or  
25 county attorney as the case may be, including employing special  
26 counsel if the city legal department or county attorney is  
27 disqualified because of a conflict of interest.

28 Sec. 14. APPLICABILITY. This division of this Act applies  
29 to assessment years beginning on or after January 1, 2018.

30 **EXPLANATION**

31 The inclusion of this explanation does not constitute agreement with  
32 the explanation's substance by the members of the general assembly.

33 This bill relates to property tax assessments, composition  
34 of conference boards, and property tax protests and appeals.

35 In 2005, the property assessment appeal board was

1 established. The legislation establishing the property  
2 assessment appeal board included a future repeal of the board  
3 effective July 1, 2013. This future repeal provision was  
4 amended in 2013 to extend the date of the repeal to July 1,  
5 2018. In 2015, the future repeal provision was again extended  
6 from July 1, 2018, to July 1, 2021.

7 Division I of the bill repeals the property assessment  
8 appeal board's future repeal provisions, including the 2013 and  
9 2015 amendments to those provisions. The bill also strikes a  
10 limitation in Code section 441.37A regarding the assessment  
11 years for which the property assessment appeal board may hear  
12 appeals.

13 For appeals to the property assessment appeal board for  
14 assessment years beginning on or after January 1, 2018,  
15 the bill provides that if the board decides in favor of the  
16 property owner or taxpayer and the assessment is reduced,  
17 the office of assessor is responsible for a percentage of  
18 the reasonable costs of the appeal incurred by the owner or  
19 taxpayer that is equal to the percentage reduction in the  
20 assessment payable from the assessment expense fund. The bill  
21 also provides that the responsibility for the payment of a  
22 percentage of the property owner's or aggrieved taxpayer's  
23 reasonable costs by the office of assessor shall not apply  
24 to the first appeal to the property assessment appeal board  
25 for which the assessment is reduced for the assessment year  
26 beginning January 1, 2018, or the first such reduction for a  
27 subsequent assessment year if no such reduction is ordered by  
28 the board for the assessment year beginning January 1, 2018.  
29 The bill also establishes similar provisions for the reasonable  
30 costs of the owner or taxpayer related to an appeal to district  
31 court for assessment years beginning on or after January 1,  
32 2018.

33 Current Code section 441.21(3) specifies a burden of proof  
34 for taxpayer protests or appeals of property assessments  
35 made by local assessors. The current standard imposes a

1 burden of proof on the complainant attacking the valuation as  
2 excessive, inadequate, inequitable, or capricious. Only after  
3 the complainant, at the protest or appeal proceedings, offers  
4 competent evidence by at least two disinterested witnesses  
5 that the market value of the property is less than the market  
6 value determined by the assessor does the burden of proof shift  
7 to the officials or persons seeking to uphold the assessor's  
8 valuation.

9 Division II of the bill provides that for assessment years  
10 beginning on or after January 1, 2018, when a valuation is  
11 protested or appealed by a complainant, the burden of proof  
12 shall be upon the office of assessor to demonstrate that  
13 such valuation is not excessive, inadequate, inequitable, or  
14 capricious.

15 Division III of the bill increases the membership of county  
16 and city conference boards by requiring the addition of four  
17 elected public members. The four public members are elected  
18 on a nonpartisan basis by the applicable voters of the county  
19 or city at the general election or regular city election,  
20 as applicable. The bill provides that a person seeking  
21 election as a public member of a conference board must only  
22 file an affidavit of candidacy. Each public member seat on  
23 the conference board may only be held by an individual who  
24 owns or holds an interest in taxable property located in the  
25 appropriate jurisdiction that is classified as residential,  
26 agricultural, commercial, or industrial property. Each of  
27 the four property classifications is assigned to one of the  
28 four public member seats and designated as such on the ballot.  
29 The bill provides that a public member seat is not limited by  
30 property classification if that property classification is not  
31 present within the jurisdiction. The four public members each  
32 serve a four-year term and may be reelected for additional  
33 four-year terms. The four public members each constitute a  
34 separate voting unit. A vacancy among the public member seats  
35 prior to the expiration of a term is filled by appointment by

1 the remaining public members of the conference board. Such an  
2 appointment is for the period until the next pending election.

3 By operation of current Code section 441.3, the addition  
4 of the four public members to the conference board results in  
5 an additional four appointments to the examining board of the  
6 applicable assessing jurisdiction.

7 Division IV of the bill modifies provisions relating to  
8 even-numbered assessment years by providing that the assessor  
9 shall value and assess or revalue and reassess, as the case  
10 may require, any individual real estate parcel that the  
11 assessor finds was assessed for more than the value authorized  
12 by law or was not listed in the assessment year immediately  
13 preceding, and any real estate the assessor finds has changed  
14 in value subsequent to January 1 of the preceding real estate  
15 assessment year based on buildings erected, improvements made,  
16 or buildings or improvements removed in a year after the  
17 assessment. The bill also provides that a percentage increase  
18 for an even-numbered assessment year shall be applied to all  
19 property within the class and shall not be applied only to  
20 a subset of the class unless approved by the department of  
21 revenue.

22 Division IV of the bill also modifies the grounds upon  
23 which a property owner or aggrieved taxpayer may protest  
24 an assessment under Code section 441.37. The bill strikes  
25 the grounds in current law that are applicable only to  
26 even-numbered assessment years and allows those grounds only  
27 authorized for odd-numbered assessment years to be asserted in  
28 any assessment year.

29 Division IV of the bill applies to assessment years  
30 beginning on or after January 1, 2018.

31 Current Code section 441.41 authorizes the conference board  
32 to employ special counsel to assist the city legal department  
33 or the county attorney in litigation dealing with assessments.  
34 The bill provides that such authority is subject to review and  
35 approval by the city legal department or the county attorney,

1 as applicable, and includes situations where the city legal  
2 department or county attorney is disqualified because of a  
3 conflict of interest.